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SUBJECT: MORE QUESTIONS THAN ANSWERS ON CUSTOMS UNION

REF: A. MOSCOW 2372

[1](#)B. MOSCOW 2204

[1](#)C. ASTANA 1445

[1](#)D. MOSCOW 2000

[1](#)E. MOSCOW 1939

[1](#)F. MOSCOW 1538

Classified By: DCM Eric Rubin for reasons 1.4 b&d

[1](#)1. (C) Summary: In an attempt to understand the form the Russia, Belarus, Kazakhstan Customs Union (RBKCU) will take on its planned implementation day of January 1, 2010 and its potential effect on the external trade of the three countries, post has put together this backgrounder on the Customs Union. The information we have, however, only seems to provide more questions than answers. On paper, the RBKCU has a structure, harmonized tariffs, a tariff collection policy, and common customs procedures. The members admit that negotiations are still pending on a code approval process, sanitary regulations, and re-importation of products, among others, but feel that these will all be resolved before the final agreement is signed in Astana on November 27. Conversations with observers and actors in the process, however, reveal that the hurried negotiations are not going as smoothly as portrayed in public and final decisions are more Moscow-directed than consensus based. Added to that, statements of concurrence with the pace and direction of the negotiations from Moscow based Kazakhs and Belarusians, may not reflect the thinking in the capitals. Regardless, at the working level, the RBKCU negotiations are going forward and the customs union will come into effect as planned. Interestingly, a September 9 meeting between First DPM Igor Shuvalov and EUR A/S Gordon revealed that Russia claims to be willing to delay implementation of the Customs Union by up to two years in order for Russia and Kazakhstan to complete their individual accessions, if Russia receives the right "assurances" from the U.S. End Summary.

Overseeing Operations- The Secretariat

[1](#)2. (U) Moscow will host the Secretariat of the Russia, Belarus, Kazakhstan Customs Union (RBKCU), which will consist of a total of 40-45 officers selected from all three countries. According to Sergei Shilov, Deputy Director for Foreign Economic Relations at the Ministry of Industry and Trade, each country has a set quota of members and dues to pay in support of Secretariat operations. He added that while the head of the organization has not been identified, the Secretariat location has been chosen and is ready. Each member has approved the dues and identified them in the national budgets. The Secretariat is expected to be operational by the middle to end of September. Most RBKCU

meetings will take place in Moscow, as it is the most convenient flight location for all members.

¶3. (C) Shilov expressed concern, however, about Secretariat staffing. He stated that between the needs of the joint WTO negotiation team and the local trade ministries, there is very little experienced technical trade staff left to staff the Secretariat (Ref B). He added that even Russia, the largest of the three, was finding staff allocation a challenge.

The Decision Making Structure

¶4. (SBU) The RBKCU Commission currently conducts the negotiations and harmonization efforts for the Customs Union.

According to our sources the Commission staff and experts will become part of the permanent Secretariat staff once the Customs Union Agreement is signed by the three presidents on November 27 in Kazakhstan. Our understanding from our Russian interlocutors is that currently, the Commission experts are negotiating harmonized documents in Moscow, which then are approved by all three capitals.

¶5. (C) Interestingly, during a September 10 conversation with econoff, Kazakh Economic Counselor Botagoz Kuatbekova presented a different picture of the decision-making structure, one which seems more Russia-directed than consensus based. Kuatbekova stated that harmonization negotiations are taking place in a working group within the Eurasian Economic Community (EURASEC). She added that these

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discussions are closely coordinated with national level working groups in each capital, but final decisions and approvals are made in Moscow. Whichever structure truly operates currently, it may not remain in place, however, because during the August 12 RBKCU Summit the Trade Ministers mandated the Commission experts to develop procedures for reviewing and changing the customs code. (Note: The RBKCU represents the founding core of EURASEC. Both Shilov and Cherekaev told econoff that any future entrants into the RBKCU will do so through the EURASEC platform. EURASEC membership includes Kyrgyzstan and Tajikistan, with Armenia, Moldova and Ukraine as observers. End Note).

Tariffs) Which Ones...

¶6. (SBU) On August 12, the RBKCU Commission members approved "in principle" the new harmonized table of tariffs. Shilov indicated that the usual August vacations were canceled as tariff experts worked around the clock to finalize the tables for the summit, but they were not able to complete the work. According to press reports, the RBKCU Commission experts on customs administration had until September 3 to finalize the tables, but we have not seen any published harmonized tables so far. Shilov did indicate the publication by the Secretariat will be far enough in advance of the January 1, 2010 implementation date for traders to adjust prices, etc.

¶7. (C) Kuatbekova of the Kazakhstan Embassy stated that the biggest challenge in the negotiations since June 9 has been the common customs tariffs. EU Director of Economic, Trade and Agricultural Affairs in Moscow Timo Hammaren told econoff that there is resistance from Belarus and Kazakhstan to accept all Russian tariff levels, with serious differences on meat and aviation. Russia's Shilov explained that these challenges have to do with the differences in industrial capacity. For example, Kazakhstan does not manufacture any pharmaceutical products, therefore they have a zero tariff on drugs. As a result, Kazakhstan will have to gradually increase its tariff on medications until it matches the harmonized tariff. (Note: This should benefit Russian drug manufacturers who will have a protected status in the whole customs union. End note.)

¶8. (C) Comment. If, as indicated in para 5, the final decisions on the harmonized tariff code are being taken in Moscow, the final code will likely reflect Russia's political, not economic, preferences, following its current use of tariffs as tools to protect local job and to send political messages. And, when the decisions based on these political considerations result in losses, we expect few of them to fall to Russia. End Comment.

...And Who Gets Paid

¶9. (C) According to press reports, another contentious issue at the August 12 summit was the collection and distribution of tariff revenues. Russia wanted a single payment administrator, the Russian Treasury, receiving and distributing all funds. Kazakhstan's proposal for collection at the country of entry and redistribution by each national entity, won the day, however. WTO Unit Chief of the Department of Multilateral Trade Negotiations in the Ministry of Economic Development Michael Cherekaev indicated to econoff that the distribution will be made according to the share each country has of overall RBKCU external trade. This will be a pilot program for 18 months, until July 2011, when it will be assessed for effectiveness. DPM Igor Shuvalov told the press that the evaluation will be carried out through joint monitoring at the national collection offices.

¶10. (C) This payment structure raises several questions as to how "share of trade" will be calculated. Will the share be based on volume or value? Will it include oil or only non-petroleum products? Even though Russian officials publicly claim the Commission has solved this issue, given the different economic structures and industrial bases for each of the three countries, we see this as a problem that will frequently crop-up between the RBKCU members.

Opening Borders) True Free Trade?

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¶11. (C) Another challenge facing the RBKCU is customs procedures. Of the three countries, Kazakhstan reportedly has moved the farthest from the original Soviet customs procedures, sometimes as the result of training from western donors. The level of difference surprised the Russians as they did not believe that their neighbors had "moved so far toward the west" in the 16 years since the fall of the Soviet Union. This variance in customs procedures has made on-going, Russia-led, joint training programs essential and these will be part of the RBKCU agreement, according to Shilov.

¶12. (C) Despite these differences, RBKCU members have publicly stated that they will remove customs officers from their internal borders on a staggered schedule; Belarus-Russia posts will close in July 2010 and Kazakhstan-Russia posts will follow in July 2011. Cherekaev noted that currently customs border posts between Russia and Belarus are just a formality, with document checks done only for statistical purposes. Their removal in 2010 will be simple. The EU Mission's Hammaren disagrees with this assessment, however, stating that all Belarusian trucks are being searched at the border. The pass-through procedures only seem to work for trains. According to the EU and Cherekaev, the delay on the Kazakh border is due to the porousness of the Kazakhstan-China border.

Other Pending Issues

¶13. (SBU) By September 3, the RBKCU Commission experts on customs administration were also expected to agree on 14 additional amendments to the Customs Union Agreement,

including the definition of the customs territory of the customs union, the procedure for re-importation of products, and the refinement of procedures for declaring residency under the Customs Union. Other pending issues still on the table include regulations and standards on SPS. Thus far, there have been no further reports on progress on any of these points, and the timeframe keeps getting shorter if the final RBKCU Agreement is to be ready for the presidents by November 27.

Is Everyone on Board?

¶14. (C) Of course, all of the above is the view from Moscow. Reports from Astana indicate that PM Putin's July 9 announcement of joint WTO accession and a sped up completion of Customs Union negotiations took the Kazakhs by surprise (Refs C and F). Just departed New Zealand Ambassador to Russia and the CIS reported to us that he was in Astana on July 9 and that no one in the Ministries of Trade or Foreign Affairs had any idea about the plan. This is interesting, of course, because the stories circulating in Moscow imply that Putin's July 9 announcement was the result of a breakthrough between Russia and Kazakhstan on vehicle tariffs. Reportedly, Kazakhstan agreed to accept Russia's tariff structure in exchange for a joint WTO accession.

¶15. (C) In a September 10 meeting with econoff, Kazakh Economic Counselor Botagoz Kuatbekova presented a middle view, saying that the three countries have been working on the Customs Union for a long time (the Customs Union was originally agreed to in 1996), and that it has been and will continue to be a step-by-step process. She added that they fully expect there to be "natural and technical" difficulties.

¶16. (C) During an August 14 meeting with econoff Belarusian Economic Counselor in Moscow Oleg Belov indicated that from the Belorussian side, there were no concerns about the customs union process. He did not indicate that the joint WTO negotiation or the sped up RBKCU negotiations are posing any problem for Minsk.

Comment

¶17. (C) While the Russians are publicly playing the RBKCU as a nearly completed deal that has been easy to agree to, private conversations indicate that this process has been much more of a challenge than many expected. Shilov indicated to A/USTR for Europe and the Middle East Chris

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Wilson in July that the Jan 1, 2010 deadline is just the first step in the creation of the RBKCU. There will be further six-month deadlines to complete unfinished items. At each of these steps the three countries will have to overcome new hurdles, both technical and political.

¶18. (C) Each of these hurdles, and the resulting solutions, will only further complicate the desired joint WTO accession process for all three countries, because it will create an ever changing basis for the negotiations. Interestingly, on September DPM Igor Shuvalov told Ambassador and EUR A/S Gordon that the implementation of the RBKCU could be delayed up to two years in order for Russia and Kazakhstan to complete their individual accessions, if Russia were to receive the right signals from the U.S. (Ref A).

¶19. (C) At the working level, however, the focus remains on the January 1, 2010 implementation deadline. Much of the negotiation of the Customs Union agreement is being completed very quickly, which means that there will most likely be large holes in the process and some significant details overlooked. As a result, even now, two months from the signing and three months from the launch, we have more

questions than answers about this Customs Union. That said, on September 3 Shilov emphasized to econoff that U.S. exporters need to pay attention to RBKCU developments because they will affect any shipments arriving after Christmas 2009.

He stated that bureaucrats of all three countries have been working flat-out since the July 9 announcement and many aspects of the customs union will come into force on the borders on January 1, 2010. We fully expect, however, that effective implementation will be a challenge and almost certainly will cause delays at the borders during the first half of 2010 if not longer.

Beyrle